

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

Clerk's Minutes
Before the Honorable Robert C. Brack

CASE NO.: CR 19-1715 RB DATE: 2/26/2020

Time in court: 41 minutes

TITLE: United States v. James Christopher Benvie

COURTROOM CLERK: Jessica Chavez COURT REPORTER: Vanessa Alyce

() Albuquerque (X) Las Cruces () Santa Fe () Roswell

() Bench warrant ordered INTERPRETER:

ATTORNEYS PRESENT FOR PLAINTIFF(S):

Renee Camacho and
Randy Castellano

ATTORNEYS PRESENT FOR DEFENDANT(S):

Orlando Mondragon

PROBATION OFFICER:

TYPE OF PROCEEDING: Pretrial conference

EVIDENTIARY: No

PROCEEDINGS:

3:20 p.m. Court in Session

Court: Here on pretrial conference. Issued MOO on some pending issues. Have reviewed motion in limine reference defense witness list. Jury trial is scheduled on Monday, March 2-4, 2020.

Ms. Camacho: Received defense witness list. One of the prospective jurors on the list is DEA analyst. Request the court excuse juror.

Mr. Mondragon: No objection to excuse juror.

Court – will excuse juror. CRD contact jury division.

Ms. Camacho: file motion in limine this morning. Defense witness list, none of the witness were present when offense occurred. No knowledge of case. Move government exhibit 1, print out of gofundme page set up by Mr.Benvie.

Mr. Mondragon: no objection

Court: Government exhibit 1 admitted for purposes of hearing this afternoon.

Ms. Camacho: statement from gofundme page set up by Mr. Benvie as to witnesses.

Argue not relevant to call witnesses. Move to exclude witnesses.

Mr. Mondragon: Mr. Benvie request to call witnesses as to pressure government to press current charges. Witnesses were not present on date of offense.

Mr. Benvie: Addresses the Court. Malicious prosecution.

Court: Have to talk as to legal implications. If everything client said is true, how does it relate to elements of offense.

Mr. Mondragon: Client position if they were not involved charges would not have been brought.

Mr. Benvie: Statements by Mr. Peter Simonson. Interpretation of statute. Facebook comments.

Court: Issue for this jury is whether Mr. Benvie committed offense on date, elements of offense. This is court is not a stage to vent politics. Unless Mr. Mondragon has anything the court have not heard about, will not allow witnesses to be called.

Mr. Benvie: other agencies contacted that refused to prosecute. Emails.

Court: If emails direct to political views about border, don't think what Mr. Benvie has has any relevance to this discreet prosecution of pending charges.

Ms. Camacho: If becomes evident defendant tries to interject motivation, will move at that time to exclude.

Court: Political motivation is not a defense to this particular charge.

Ms. Camacho: Clarification as to ruling on other motion in limine and 404b.

Court: Defendant by way of counsel, comment of politics, facebook are subject to relevance objection.

Ms. Camacho: notice on 404b. Government will be allowed to bring up fraudulent gofundme page. Will call attorney that represented person custody dispute received call from defendant. Will ask through atty or father of child, did they become up of fundraising.

Court: Response.

Mr. Mondragon: trial within a trial. Father was not aware. Based on defendant's statement, mother was aware.

Court: Admonishes Mr. Benvie, outbursts. Concern trial within a trial.

Mr. Camacho: Confirm to ruling, if defendant takes the stand. Will be allowed cross exam his instances of fraudulent conduct, including details of fundraising. Intend to go into gofundme page, legal defense. Instance in July 2018, found in possession of stolen Penske truck. Dishonest behavior, credibility.

Mr. Mondragon: Understand cross examination if defendant takes stand. Client is in half-way house in Albuquerque. Request client remain here in Las Cruces and visit border with attorney.

Ms. Camacho: No objection to defendant remaining in Las Cruces.

Court: No objection to defendant remaining in Las Cruces and go to border if with attorney.

Avoid Drury Inn and spare comment contact with other persons.

Ms. Camacho: Provided copies exhibit to Court and defense. Exhibit 26-29, representation of attorney. Ms. Camacho moves admission Govt exhibits 1-25, Government 30-31.

Mr. Mondragon: no objection

Court – admits Government exhibits 1-25 and Government 30-31. Opening 20 minutes each side.

4:01p.m. Court in recess